DOCUMENT RESUME

ED 382 514 SO 025 023

TITLE	Antidote: Civic Responsibility. Alaska Law.
INSTITUTION	Phi Alpha Delta Law Fraternity International, Washington, DC.
SPONS AGENCY	Department of Justice, Washington, D.C. Office of Juvenile Justice and Delinquency Prevention.
PUB DATE	93
CONTRACT	93-JS-CX-005
NOTE	15p.; For related lesson materials, see ED 372 024. For other state supplements, see SO 025 022-066.
AVAILABLE FROM	Phi Alpha Delta Public Service Center, 1511 K Street, N.W., Suite 611, Washington, DC 20005.
PUB TYPE	Guides - Classroom Use - Instructional Materials (For Learner) (051) -- Guides - Classroom Use - Teaching Guides (For Teacher) (052)
EDRS PRICE	MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	*Citizenship Education; *Constitutional Law; *Criminal Law; Drug Education; *Drug Legislation; High Schools; Illegal Drug Use; Intermediate Grades; Junior High Schools; *Law Related Education; Middle Schools; Resource Materials; State Legislation
IDENTIFIERS	*Alaska; Phi Alpha Delta Law Fraternity

ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Alaska state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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ED 382 514

Antidote: Civic Responsibility

Alaska Law

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Lesson 1

1. Has Aimee violated any state laws? Have her parents?

Aimee has violated no Alaska law as there is no law which makes a minor liable for an unintentionally dangerous act toward another minor.

Aimee and Carrie's parents, however, might be violating Alaska law. One is in violation of Alaska Stat. §11.51.100 for endangering the welfare of a minor if s/he is the parent, guardian, or person legally charged with the care of a child under 10 and the person intentionally deserts the child in any place under circumstances creating a substantial risk of physical injury to the child. Arguably, the girls' parents, by leaving them home without adult supervision, put the girls in substantial risk of physical injury. In particular, Carrie could acquire Reye's Syndrome by consuming an aspirin if she had the measles. By not securing a caretaker with knowledge of such information, the parents are putting Carrie at substantial risk. The conviction of the parents depends on factors such as for how long and how often they left the girls unsupervised.

2. Does state law allow 17 year old Tyrell to drink a glass of wine with his dinner without his parents' consent?

No. Alaska law mandates that a person under 21 may not knowingly consume, possess or control alcoholic beverages unless the alcoholic beverage was furnished or delivered by parent to child, guardian to the guardian's ward, spouse to spouse or licensed physician or nurse to patient. Alaska Stat. § 04.16.050 (1992). Tyrell, without the consent of his parents, may not have wine at dinner.

Possession or consumption of an alcoholic beverage subjects a person between 13 and 17 to revocation of his/her driver's license. Alaska Stat. § 28.15.185 (a) (1992).

3. Is Maria violating any law when she tells her roommates whom to call to buy marijuana?

Yes. Possession of marijuana is a violation of Alaska law. Alaska Stat. §11.16.1110 (1992). Maria, while not possessing marijuana herself, provided information critical to her roommates' attaining the marijuana. One is legally accountable for the conduct of another constituting an offense if the person aids or abets the others in planning or committing the offense. Alaska Stat. §11.16.110 (1992). Maria aided her roommates by telling them whom to call to purchase marijuana. Absent her information they would not have been able to move forward with the crime.. Consequently, Maria can be held legally accountable for her involvement.

4. Have Adam and Alex broken any laws other than those against

drinking and fighting?

Yes. Since Joe died as a consequence of his interaction with Alex and Adam they will held responsible for their behavior and Joe's death. They could be charged under several code sections including Alaska Stat. §11.41.210 (1991), assault in the second degree. They will be convicted of this violation if it is shown they recklessly caused serious physical injury to another. A more serious charge would be under Alaska Stat. § 11.41.120 (1991). They could be convicted of manslaughter if it is shown they recklessly caused the death of another under circumstances not amounting to murder. Of the two, the assault charge is more likely since they probably lacked the intent necessary for manslaughter.

5. **Has Jose violated any state law even though he is not drinking? Has Carlos or TJ violated any state law?**

Jose is in violation of Alaska law. "A person may not drive a motor vehicle on a highway or vehicular way or area, when there is an open bottle, can or other receptacle containing an alcoholic beverage in the passenger compartment of the vehicle," unless the beverage is in the trunk, enclosed within another container in vehicle without a trunk, behind a solid partition that separates the driver from the area normally occupied by the passengers or in the possession of the passengers in a motor vehicle for which the owner receives direct monetary compensation and that has a capacity of 12 or more persons.

TJ is violating Alaska law. Alaska law mandates that a person under 21 may not knowingly consume, possess or control alcoholic beverages unless the alcoholic beverage was furnished or delivered by parent to child, guardian to the guardian's ward, spouse to spouse or licensed physician or nurse to patient. Alaska Stat. § 04.16.050 (1992).

Possession or consumption of an alcoholic beverage subjects a person between 13 and 17 to revocation of his/her driver's license. Alaska Stat. § 28.15.185 (a) (1992).

Carlos is violation of Alaska Stat. §04.16.051 (1992) which prohibits a person from furnishing or delivering an alcoholic beverage to a person under 21.

6. **Is Dr. Melrose violating any state or federal law by prescribing pain killers without conducting an examination or determining need?**

Dr. Melrose is violating not only state law, but federal law too. Under 21 U.S.C.A. § 829, a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional conduct. U.S. v. Varma, 691 F.2d 460 (1982), U.S. v. Jamieson, 605 F. Supp. 119 (1985).

Dr. Melrose's patients, if they do not provide him with a bona fide reason for needing the painkillers, may also be breaking the law. 21 U.S.C.A. § 843 prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

Dr. Melrose is in violation of Alaska Stat. §17.30.080 for prescribing a controlled substance without a medical purpose for the issuance of the prescription.

7. **Is Danielle violating any law by taking only one or two pills from someone else's prescription?**

Danielle is violating several state and federal laws. Since she is in effect dispensing prescription drugs to herself, she is violating 21 U.S.C.A. § 829, which prohibits dispensing any controlled substance which is a prescription drug without the written prescription of a practitioner. She is also violating 21 U.S.C.A. § 843, which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge and 21 U.S.C.A. § 844 which prohibits simple possession of a controlled substance unless such a substance was obtained by a prescription. The seriousness of her crime under federal drug control laws will depend on the type of drug which she is taking and how the drugs are used.

Danielle's taking and possessing pills from prescriptions is a violation of Alaska Stat. §§ 11.71.040 or .050 (1992) depending on the quantity she takes. These sections deal specifically with the obtaining of control by misrepresentation, fraud, forgery, deception and subterfuge. Danielle could also be charged with theft in accordance with Alaska Stat. §11.46.100 (1992) which states that a person commits theft if with intent to deprive another of property or to appropriate property to oneself or a third person, the person obtains the property of another. Danielle's taking of pills from the prescriptions of others violates this law.

8. **Is Renee breaking any law even though she is not selling drugs herself?**

Even thought she is not selling drugs directly, Renee is violating several state and federal laws. She is violating 21 U.S.C.A. §841 prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense drugs and 21 U.S.C.A. §844 prohibiting simple possession of a controlled substance.

Renee could receive an increased sentence in accordance with the federal sentencing guidelines as a result of her using children in her scheme. Under 21 U.S.C.A. § 859, the distribution of a controlled substance to a person under 21 year of age is subject to increased penalties. The United States expressed its concern with the importance of protecting

children from drug trafficking under 21 U.S.C.A. § 860, which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 also provides for increased sentences in cases of abuse of one's position of trust, as in a drug trafficking defendant involving her daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

Possessing or delivering controlled substances is a violation of Alaska Law. Alaska Stat. §§ 11.71.010 - 050 (1992). Possession on or within 500 feet of school grounds or on a school bus is specifically dealt with under §11.71.030. Additionally, Alaska Stat. §11.51.130 makes it unlawful for one to contribute to the delinquency of a minor. Under this law if one over 19 aides, induces, causes or encourages a child under 18 to enter or remain in the same room or building where the unlawful sale of a drug occurs s/he has violated this law. Renee is in violation of this since she went further by having Mary deliver the drugs for her.

9. **Did Jim violate any law other than those regarding controlled substances?**

Their heroin use is a felony under federal drug-control statutes. 21 U.S.C.A. § 841 prohibits possession of a controlled substance with the intent to manufacture, distribute or dispense such substance. 21 U.S.C.A. § 844 prohibits simple possession of a controlled substance.

Jim transmitted the HIV virus to Andre through the shared needle. Alaska has not yet dealt with this issue. Under the Model Penal Code, however, Jim's behavior could constitute simple or aggravated assault or the attempt thereof, or reckless endangerment; under certain extreme situations, it could be construed as murder. See Gene Schultz, AIDS: Public Health and the Criminal Law, 7 St. Louis U. Pub. L. Rev. 65 (1988); Roger N. Braden, AIDS: Dealing With the Plague, 19 N. Ky. L. Rev. 277 (1992). In some cases, it has been suggested that the HIV virus provides a deadly weapon. Cf. Brock v. State, 555 So.2d 285 (Ala. Crim. App. 1989).

10. **Has the bartender or owner of Bulldog's Bar & Grill violated any law?**

Yes. A licensee, agent or employee may not with criminal negligence sell, give, or barter alcoholic beverages to a drunken person or allow another to do the same according to Alaska Stat. §.04.16.030 (1992). Additionally, those individuals may not allow a drunken person to enter or remain within licensed premises or consume alcohol on the licensed premises. Id. Consequently, both the bartender and owner of Bulldog's would be violating the law by serving Su or allowing her to remain at Bulldogs.

If Su is permitted to remain at Bulldog's and/or consume alcohol, the licensee (owner) or his/her agent or employee who served her alcohol may be held civilly liable for injuries resulting from the intoxication of the person. Alaska Stat. § 04.21.020 (1991).

Lesson 2

CRIMINAL JUSTICE STATISTICS:
DRUG AND ALCOHOL RELATED OFFENSES
UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990
A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	$25,000	15yrs + $25,000
schedule 2	15 years	$25,000	15yrs + $25,000
schedule 3	5 years	$15,000	5yrs + $15,000
schedule 4	3 years	$10,000	3yrs + $10,000
schedule 5	1 year	$ 5,000	1yr + $ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1[1]	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine[2]	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1
Massachusetts[3]	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2

[1] Must have more than 15% THC (tetrahydrocannobinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

[3] Massachusetts calls their schedules classes, but they are the same thing.

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States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada[4]	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	• imprisonment not to exceed 10 years, and • fine not to exceed $50,000
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	• imprisonment not to exceed 5 years, and • fine not to exceed $50,000
First Offense: Codeine - Possession - 200 mg	• imprisonment not to exceed 5 years, and • fine not to exceed $50,000
Second Offense: Marijuana - Possession - 50 kg	• imprisonment for 2 to 5 years, and • fine not to exceed $50,000
Third Offense - Methamphetamine - Possession - 100 g	• imprisonment for 3 to 5 years, and • fine not to exceed $50,000

Cite: Alaska Stat. § 11.71.040

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite: 21 U.S.C. § 841 (1992).

Lesson 6 & 7

1. **What does DWI stand for?**

Driving while intoxicated.

2. **What does DUI stand for?**

Driving under the influence. Under §28.35.030 it is unlawful for any person to drive while under the influence of intoxicating liquor or with a blood alcohol concentration of 0.10% or more.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

Alaska law does not distinguish between DWI or DUI.

4. **What are the penalties for being convicted of DWI? DUI?**

CONVICTION	PUNISHMENT
first	• jail for not less than 72 consecutive hours, and • a minimum fine of $250
second	• jail for not less than 20 days, and • a minimum fine of $500
third	• jail for not less than 60 days, and • a minimum fine of $1000
fourth	• jail for not less than 120 days, and • a minimum fine of $2000
fifth	• jail for not less than 240 days, and • a minimum fine of $3000
sixth and subsequent	• jail for not less than 360 days, and • a minimum fine of $4000

5. **What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?**

Under §28.35.031 if a person drives on the roads of Alaska he/she is deemed to have given consent to a breath test. Under §28.35.032 if any person refuses to take a breath test his/her license will be revoked.

6. **What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated?**

A person's BAC must be 0.10 to legally intoxicated in Alaska.

7. **The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?**

False. Alaska law does not provide a lower BAC for persons under 21.

8. **An open container of alcohol can be in your car if you are 21 or over. True or False?**

False. Under § 28-35.029 no one may drive a motor vehicle when there is an open bottle, can or other receptacle containing an alcoholic beverage in the passenger compartment of the vehicle, including the glove compartment. Open containers, containers with a broken seal, may, however, be in the trunk. If the vehicle has no trunk, then an open container must be enclosed within another container an be behind the last upright seat.

Note: it is unlawful for any person under 21 to possess or consume alcohol. Section 4.16.050.

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Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the **March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,**

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

0.00 BAC	0.01 BAC	0.02 BAC	0.04 BAC	0.05 BAC	0.06 BAC
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only
IL: minors <17 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.

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